

MAY 15 2007

60137-231; 265-3038-U

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Llewellyn  
Serial No.: 10/768,377  
Filed: 1/30/2004  
Art Unit: 3721  
Examiner: Durand, Paul R.  
Title: TWO SHOT POWER NAILER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

This is in reply to the Examiner's Answer mailed March 15, 2007.

The Rejection of Claims 1 and 17

The independent claims stand rejected as being anticipated by the Yiu patent. This rejection is contested.

The examiner seems to argue that the position sensor as required by the claims is only recited functionally. In fact, this is irrelevant, as functional language must be met by a reference for the reference to properly meet the claims. However, claims 1 and 17 do not just functionally recite the position sensor. Instead, the claims specifically recite a sensor, and a control that receives a signal from that sensor. As an example, claim 1 recites that there is a position sensor for "sensing a position of said plunger." The control receives a signal from the position sensor "when said plunger reaches a rearwardly spaced position." These are structural limitations, and require that a signal be sent *when said plunger reaches a rearwardly spaced position*. That is, the claims specifically require that the position of the sensor be sensed, and not simply estimated.

MAY 15 2007

60137-231; 265-3038-U

In some embodiments of this application, there is no position sensor, and the position of the sensor is estimated based upon electrical features. This is all that is disclosed by Yiu, which does not disclose a position sensor. For these reasons, and for the reasons set forth in the main brief, the rejection of the claims is improper and should be reversed.

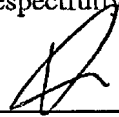
#### The Rejection of Claims 21 and 22

These claims require that a capacitor perform a particular function. Yiu discloses that it includes a capacitor, but Yiu's capacitor is performing a function that is not the claimed control function. As such, Yiu's capacitor does not meet the claims. The examiner makes the statement "If the capacitor providing power to the MPU is deemed not to anticipate this element, Yiu clearly anticipates other uses for the capacitor's ability to power other elements of the tool." It is unclear what is meant by this, or how it can meet the limitations of a capacitor storing energy, which is released after the position sensor indicates the plunger has reached its rearwardly spaced position. Again, Yiu does not disclose any position sensor that senses the position of a plunger, nor does it disclose a capacitor that stores energy until the plunger reaches a particular position. Simply, this claim is not properly anticipated.

#### CONCLUSION

For the reasons set forth above, and for the reasons set forth in the main brief, the rejection of all claims is improper and should be reversed. Such action is solicited.

Respectfully submitted,



Theodore W. Olds, Reg. No. 33,080  
Carlson, Gaskey & Olds  
400 W. Maple Road, Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: May 15, 2007

RECEIVED  
CENTRAL FAX CENTER


003/003

MAY 15 2007

60137-231; 265-3038-U

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on May 15, 2007.

  
\_\_\_\_\_  
Laura Combs